

General Information Letter: Interest on bonds issued by Illinois agencies is exempt only if expressly provided by statute.

November 13, 2000

Dear:

This is in response to your letter of October 5, 2000 in which you request a private letter ruling. Department rules require that the Department issue two types of rulings, private letter rulings and general information letters. The Department has adopted rules concerning letter rulings and other information issued by the Department (2 Ill. Adm. Code 1200). We would be happy to send you a copy of those rules at your request.

Although you have not requested either type of ruling on behalf of your company, the nature of your questions and the information you provided necessitates that we respond in the form of general information letter. A general information letter, which is designed to provide general information, is not a ruling that is binding on the Department.

In your letter you stated:

I am requesting a letter ruling that the \$300.00 exemption claimed by xxxxxxxxxxxxxxxx on our joint 1999 State of Illinois Income Tax Return arising from interest on an Illinois Health Facilities Authority Revenue Bond is exempt from Illinois Income Tax. The bond in question is a Carle Foundation Series A Revenue Bond issued December 15, 1989 by the Illinois Health Facilities Authority pursuant to statutory authorization found in 20 ILCS 3705/1 *et. seq.* It is our position that the income from that revenue bond is exempt from state taxation, pursuant to the provision of 20 ILCS 3705/26. A copy of 20 ILCS 3705/26 is attached and the exemption contained therein highlighted.

Because Illinois Health Facilities Authority Revenue Bonds are exempt from income taxation, no Form 1099 was received by xxxxxxxxxxxxxxxx. However, she does have her 1999 fourth quarter accounting from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx which shows \$300.00 in interest received from the Illinois Health Facilities Authority. A copy of the accounting from xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx with the income summary and a description of the portfolio holdings highlighted is also enclosed.

Mike Hollis, a Revenue Specialist I, has denied an exemption of this income apparently upon the grounds that the Illinois Health Facilities Act contains no sunset provision for this exemption. Even though there is no specific sunset provision, we do not believe that the default five year sunset applies to these bonds because of the final clause of 35 ILCS 5/250 which provides that the exemption does not terminate until after the obligations have been paid by the issuer.

We therefore request a private letter ruling that Carle Foundation Series A Revenue Bonds issued December 15, 1989, by the Illinois Health Facilities Authority be found to be exempt from Illinois Income Tax under the provisions of 20 ILCS 3705/26, and we believe that the data supplied herewith establishes our right to a refund in the amount claimed on the original 1999 Form IL 1040.

DISCUSSION

Section 203(a)(2)(N) of the Illinois Income Tax Act allows a subtraction from income only in instances where the law specifically allows one. Section N states:

An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

Accordingly, a taxpayer may only subtract the interest income from a municipal bond if the authorizing statute allows this. In the case of the Illinois Health Facilities Authority Revenue Bonds no such authority exists in 20 ILCS 3705/1 *et. seq.* The measure quoted in your letter from 20 ILCS 3705/26 refers to the revenue of the *authority*, not the bondholders. That is, the Authority is exempt from state and municipal taxation. The bondholders must still pay the Illinois income tax on interest income from such bonds. For this reason, the sunset provision has no application to the question involved.

As mentioned above, this is merely a general information letter and not a statement of policy and is not binding upon the Department. I hope that this has been helpful to you. The Department maintains a website, which can be accessed at www.revenue.state.il.us. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Charles E. Matoesian
Associate Counsel - Income Tax Division